

REMARKS

In connection with the concurrently filed Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, and to fulfill the requirement for a submission, please enter this reply submitted in response to the Official Action mailed July 24, 2006.

Claims 1, 3, 5, 8, 13, 14, 16, 18, 24, 25, 27, and 29-31 are currently pending. Claims 2, 4, 6, 7, 9-12, 15, 17, 19-23, 26, 28, and 32-37 are cancelled. The subject matter of claim 4 is incorporated into claim 1 to more particularly point out and distinctly claim the tripolyphosphate. The subject matter of claims 6 and 7 is also incorporated into claim 1 to more particularly point out and distinctly claim the palatability enhancing composition. The subject matter of claims 18 and 23 is incorporated into claim 16 to more particularly point out and distinctly claim the palatability enhancing composition. The subject matter of claim 28 is incorporated into claim 25 to more particularly point out and distinctly claim the palatability enhancing composition. No new matter is added. Furthermore, a new search is not necessary because all of the limitations added to claims 1, 7, and 25 were present in the originally-filed dependent claims and have already been considered by the Examiner.

In view of these claim amendments, the enclosed Rule 132 Declaration of Dr. Patrick W. Moeller, and the following remarks, reconsideration by the Examiner and allowance of the application are respectfully requested.

CLAIM REJECTIONS

Claims 1-37 are rejected under 35 U.S.C. §103(a) as being unpatentable over Brunner (U.S. Patent No. 6,254,920) or Lin et al. (Published U.S. Application No. 2005/0037108) in view of Todd, Jr. (U.S. Patent No. 6,099,879) and Buckholz, Jr. et al. (U.S. Patent No. 4,514,431) and further in view of Gierhart et al. (U.S. Patent No. 5,186,964), Majlinger (U.S. Patent No. 4,215,149), and Scaglione (U.S. Patent No. 5,015,485).

Claim 1 is amended to recite that the palatability enhancing composition includes at least one sodium tripolyphosphate salt and the liquid palatability enhancing composition is sprayed in a quantity sufficient to contribute from about 0.01 to about 5.0 percent by weight of at least one sodium tripolyphosphate salt to the pet food composition. Claim 16 is amended to recite that the

palatability enhancing composition is a liquid and includes from about 5 to about 50% by weight of at least one sodium tripolyphosphate salt.

None of Gierhart et al., Brunner, Lin et al., Majlinger, and Scaglione disclose or suggest a pet food palatability enhancer composition, which includes at least one sodium tripolyphosphate salt or the advantages obtained therefrom. Furthermore, none of Gierhart et al., Brunner, Lin et al., Majlinger, Scaglione, and Buckholz, Jr. disclose or suggest spraying a liquid palatability enhancing composition in a quantity sufficient to contribute from about 0.01 to about 5.0 percent by weight of at least one sodium tripolyphosphate salt to a pet food composition or the advantages obtained therefrom.

Gierhart et al., Brunner, and Lin et al. disclose pet food palatability enhancer compositions containing a pyrophosphate salt. Lin et al. is more specifically directed to the use of tetrapotassium pyrophosphate salts. Majlinger discloses phosphate salts as pet food palatability enhancers. Scaglione discloses coating dog biscuits with pyrophosphate salts for tartar control. Buckholz, Jr. et al. discloses an MSG-type flavor enhancer and seasoning composition for meat products containing from about 6 mole percent up to 50 mole percent of a phosphate and/or a monoacid phosphate and/or a diacid phosphate and/or phosphoric acid taken alone or further together with at least one tripolyphosphate, pyrophosphate or polymetaphosphate.

Todd, Jr. and Buckholz, Jr. are completely irrelevant to the subject of pet food palatability. Todd, Jr. discloses treating meat products with rosemary extract and one or more anti-oxidants selected from tocopherols, ascorbic acid, citric acid and sodium tripolyphosphate to preserve flavor in irradiated meat for human consumption. Buckholz, Jr. et al. discloses an MSG-type flavor enhancer and seasoning composition for meat products containing from about 6 mole percent up to 50 mole percent of a phosphate and/or a monoacid phosphate and/or a diacid phosphate and/or phosphoric acid taken alone or further together with at least one tripolyphosphate, pyrophosphate or polymetaphosphate.

However, the claims of the present application are now limited to liquid pet food palatability enhancer compositions, which include at least one sodium tripolyphosphate (STPP) salt. As discussed in paragraphs 8-19 of the enclosed Rule 132 Declaration of Patrick W. Moeller, Ph.D., the claimed STPP compositions have unexpectedly superior palatability

properties over the specified compositions comprising tetrasodium pyrophosphate (TSPP) or sodium acid pyrophosphate (SAPP). In particular, the data demonstrates that STPP is superior to both SAPP and TSPP when spray-applied as a liquid. Claim 1 has been amended to incorporate this feature. The present invention represents more than the replacement of TSPP or SAPP palatability enhancers with a similar material. The palatability tests demonstrate that the use of STPP represents an inventive step over the state of art identified by the Examiner.

Furthermore, the two cited prior art publications disclosing polyphosphates provide no motivation to replace the phosphates and pyrophosphates of the other cited prior art publications with at least one sodium tripolyphosphate salt. Todd, Jr. discloses polyphosphates among a listing of anti-oxidants that can be optionally used in combination with rosemary oil (another anti-oxidant) to preserve flavor in irradiated meat for human consumption. That is, flavor is preserved, not enhanced. Buckholz, Jr. et al. discloses polyphosphates or pyrophosphates can optionally be used in combination with phosphates in an MSG-type flavor enhancer for human foodstuff.

Neither publication provides the motivation for replacing the pyrophosphates or phosphates of the other cited prior art references with at least one sodium tripolyphosphate salt in pet food palatability enhancer compositions. There is no suggestion in Buckholz, Jr. that sodium tripolyphosphate salts enhance food palatability. Buckholz, Jr. prefers phosphates over polyphosphates and pyrophosphates.

Additionally, the Examiner questions the validity of the test protocols using 2 bowls, 20 animals fed over two days. However, Dr. Moeller explains that this protocol is the accepted industry standard with the 2 days being used to switch bowls to eliminate any positional bias. This test provides greater sensitivity than standard in-home single bowl trials which require more animals and longer times to determine differences. This format is used in most animal test facilities doing independent commercial trials throughout the country. Similar testing is also done around the world in, for example, Europe and Japan.

In view of the above claim amendments and remarks and the enclosed Rule 132 Declaration, this rejection of the pending claims under 35 U.S.C. § 103(a) has thus been overcome. Reconsideration by the Examiner and withdrawal of this rejection are therefore respectfully requested.

CONCLUSION

Accordingly, this application is now believed to be in condition for allowance. Reconsideration is respectfully requested. However, the Examiner is requested to telephone the undersigned if there are any remaining issues in this application to be resolved.

An electronic payment of \$1,810.00 for the three-month Petition for Extension of Time fee of \$1,020.00 and the RCE fee of \$790.00 is submitted herewith. The Examiner is authorized to charge any additional fees to Applicants' Deposit Account No. 19-5425.

Respectfully submitted,

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Date: January 24, 2007

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